

Disposition of the Independent Review Panel

Complainant: Rafael Morales

Date: November 1, 2004

IRP Case: A 2003.159

MDPD Case: PC 2003-0151



The Independent Review Panel (IRP) met on October 28, 2004 for the purpose of publicly reviewing the complaint made by Rafael Morales against the Miami-Dade Police Department and the department's response to that complaint. The following represents the findings of the Panel:

A. Incident

On May 19, 2003, Mr. Morales contacted the Independent Review Panel regarding his arrest on August 24, 2002. Mr. Morales stated that he was present when his 16 year old son, Rafael Morales, Jr., and another boy got into a fight. Officer Christensen arrived in his police vehicle and immediately after that another car stopped across the street. An African American man in plain clothes got out and told Officer Christensen that Mr. Morales "put the juveniles to fight." Mr. Morales was arrested and charged with contributing to the delinquency of a minor. Rafael Morales, Jr., was arrested and charged with battery.

B. Allegations

1. Officer Christensen improperly arrested Mr. Morales and his son, based on the word of an unidentified man.
2. Officer Christensen failed to follow procedures for completing the Offense-Incident Report when he did not identify the person who provided the information written in the narrative, information he used to justify the arrest of Mr. Morales.
3. An unidentified African American man, possibly a police officer, used excessive force when he pushed Mr. Morales hard against the car.

C. Disposition of the Independent Review Panel

- Allegation 1: The Panel found that Officer Christensen improperly arrested Mr. Morales and his son, based on the word of an unidentified man to be Sustained. The State Attorney's Office did not pursue the charges, rendering instead a disposition of nolle pros, meaning "unwilling to prosecute."
- Allegation 2: The Panel found that Officer Christensen failed to follow procedures for completing the Offense-incident Report when he did not identify the person who provided the information written in the narrative, information he used to justify the arrest of Mr. Morales to be Sustained. Witness statements confirmed the participation of an unknown African American male in the incident. Officer Christen failed to mention the African American in the Offense-Incident Report and the Arrest Affidavit.
- Allegation 3: The Panel found that an unidentified African American man, possibly a police officer, used excessive force when he pushed Mr. Morales hard against the car to have No Finding. The identity of the African American man remains unknown.

D. Other Findings

1. The allegation that Officer Christensen improperly arrested Mr. Morales and his son was not addressed in the MDPD investigation.
2. No action was taken against Officer Christensen as a result of the sustained allegation because he was already retired at the time the disposition was made.

The complaint was concluded on October 28, 2004.

Independent Review Panel

Staff Recommendation to the Panel

October 28, 2004

Complaint No. A2003.159

MDPD Case: PC 2003-0151

Name of Complainant: Rafael Morales

Accused Party: Miami-Dade Police Department (MDPD), Officer Albert Christensen

Materials Reviewed: Grievance Report Form, Correspondence, Staff Notes, and Departmental Response

Complaint: Mr. Morales contacted the Independent Review Panel on May 19, 2003 regarding his arrest on August 24, 2002. Mr. Morales stated that he was present when his 16-yr-old son, Rafael Morales, Jr., and another boy (Salas) got into a fight. Officer Christensen arrived in his police vehicle and immediately after that another car stopped across the street. An African American man in plain clothes got out and told Officer Christensen that Mr. Morales "put the juveniles to fight." At this point 2 or 3 more police cars arrived. Officer Christensen chose to listen to the African American man, and not to listen to Mr. Morales. Officer Christensen told Mr. Morales to put his hands on the top of the car. When he asked why, the African American man pushed Mr. Morales hard against the car, saying "do what you were told." Mr. Morales believes the African American man may have been an off-duty officer.

Rafael Morales, Sr. was arrested and charged with contributing to the delinquency of a minor. Rafael Jr. was arrested and charged with battery. The Salas boy was not arrested. Mr. Morales stated that both his case and his son's case were dismissed. (The Criminal Justice Information System documents a disposition of "Nolle Pros.")

Mr. Morales stated the African American man was not identified on the police report and his attorney was unable to discover the identity of the man. He made the following allegations to the Independent Review Panel that were then referred to MDPD, with a request for a formal investigation.

1. Officer Christensen improperly arrested Mr. Morales and his son, based on the word of an unidentified man.
2. Officer Christensen failed to follow procedures for completing the Offense-Incident Report when he did not identify the person who provided the information written in the narrative, information he used to justify the arrest of Mr. Morales.

3. An unidentified African American man, possibly a police officer, used excessive force when he pushed Mr. Morales hard against the car.

Departmental Response – MDPD Investigation PC 2003-0151

According to the Professional Compliance investigative report, Mr. Morales stated the following:

On Saturday, August 24, 2002, while driving on Southwest 137th Ave, Mr. Morales observed two males walking along the right shoulder. As he passed, his son made a gesture at the males. Mr. Morales stopped his vehicle because he believed that his son knew the males. He then backed up his vehicle and his son exited and began to argue with the males. Mr. Morales noticed the argument turned physical as his son and Mr. Salas began to punch each other. As he tried to stop the fight, an unknown African American male stopped his vehicle and separated the fighting males. Also arriving on the scene was Hammocks District Officer Albert Christensen, who began to question those on the scene. The unknown African American male spoke to Officer Christensen and then left.

Mr. Morales indicated that Officer Christensen did not ask him about the incident. He instead believed the unidentified African American male and arrested Mr. Morales and his son.

MDPD did not take a statement from Officer Christensen because the officer retired on June 30, 2003 and he did not respond to attempts to contact him.

MDPD investigated the allegations that:

1. On Saturday, August 24, 2002, Officer Albert Christensen called Mr. Morales a “piece of shit,” and that Officer Gilbert Yap told him that he was a “motherfucker and a piece of shit spic.”
2. On Saturday, August 24, 2002, Officer Christensen failed to properly document the name of an unknown African American male witness on a police report.

The MDPD Disposition Panel made the following findings:

Allegation #1-NOT SUSTAINED

On August 24, 2002, Mr. Morales’s nephew and son stated they heard Officer Christensen call the complainant a “piece of shit spic.” The other witness, Mr. Salas, reported that he never heard Officer Christensen say anything discourteous to Mr. Morales.

Allegation #2-SUSTAINED

On August 24, 2002, Mr. Morales, his son, his nephew and Mr. Salas stated that an unknown Black male witnessed the incident between the complainant, his son and Mr. Salas. They all gave similar accounts of the unknown male's participation in the incident.

Officer Christensen failed to mention the unknown African American male witness in the Offense Incident Report and Arrest Form. Therefore, this allegation is sustained.

Mr. Morales also alleged that Officer Yap referred to him in a derogatory manner. His nephew was the only witness who supported his statement. Both the complainant's son and Mr. Salas never saw Officer Yap speak to the complainant. Due to inconsistent statements of the witnesses and lack of evidence to sustain the complaint, this allegation is not sustained.

Staff Remarks:

After receiving the MDPD investigative report on April 19, 2004, a copy of the report was sent to the complainant, with the request that he advise Panel staff by May 5, 2004 whether or not it satisfied his complaint. After he did not respond, a telephone message was left on July 19, 2004. To date, Mr. Morales has not contacted staff.

Staff Findings:

A. Regarding the Allegations

1. Officer Christensen improperly arrested Mr. Morales and his son, based on the word of an unidentified man.

SUSTAINED. The State Attorney's Office did not pursue the charges, rendering instead a disposition of nolle pros, meaning "unwilling to prosecute."

2. Officer Christensen failed to follow procedures for completing the Offense-Incident Report when he did not identify the person who provided the information written in the narrative, information he used to justify the arrest of Mr. Morales.

SUSTAINED. Witness statements confirmed the participation of an unknown African American male in the incident. Officer Christensen failed to mention the African American male in the Offense Incident Report and the Arrest Affidavit.

3. An unidentified African American man, possibly a police officer, used excessive force when he pushed Mr. Morales hard against the car.

NO FINDING. The identity of the African American man remains unknown.

B. Other findings

1. The allegation that Officer Christensen improperly arrested Mr. Morales and his son was not addressed in the MDPD investigation.
2. No action was taken against Officer Christensen as a result of the sustained allegation because he was already retired at the time the disposition was made.

Staff Recommendation:

Staff recommends that the Panel accept the staff findings and conclude the complaint.